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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,272	05/10/2005	Robert David Eden	081476-0312356/NSP/PAC/P0	5371

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EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

01/20/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,272

Applicant(s)

EDEN, ROBERT DAVID

Examiner

James F. Hook

Art Unit

3754

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 5-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Maly. The reference to Maly discloses the recited apparatus for forming a plug comprising a carrier 10, two spaced apart portions 11 for sliding fit and forming a gap, a body of material with a melting point higher than the temperature within the passageway 15a where the means is provided for melting the material to fill the gap, the melting material expands as it solidifies, the obstructing means is formed as rings 14 provided in grooves in members 11, and the method of using such to plug a pipe where cooling fluid such as water can be provided through the member 10, and where inherently the thinner material in the gap between the rings and the wall would solidify faster since there is less material to retain heat.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maly in view of Feldhoff. The reference to Maly discloses all of the recited structure with the exception of forming the ring as a C shaped ring. The reference to Feldhoff discloses the use of rings in grooves of sealing members, where the rings can be either solid with no breaks or can be formed as a C-shaped ring as well. It would have been obvious to one skilled in the art to modify the ring in Maly by forming such as a C shaped ring where such is an equivalent form of a ring used in a groove of a sealing apparatus as suggested by Feldhoff where such would allow for easier insertion of the ring into the apparatus and is a known equivalent form the ring can take.

Response to Arguments

Applicant's arguments filed September 28, 2009 have been fully considered but they are not persuasive. The arguments directed at Maly with regards to the plug being cooled to shrink and be removed, such is not persuasive when the claims only require cooling and the liquid run through the Maly before the removal stage is only cooling and not cooling to the point of removal, where freezing is used to remove the plug, and such is also set forth with response to using wax, there is no specific disclosure that freezing

the bismuth metal plug would in fact act the exact same way as the wax when cooled or frozen. Since a bismuth alloy is also used by applicant and there is no specific process done to it to make it expand while cooling it is considered inherent that the bismuth alloy of Maly would work in the same fashion. Also, with respect to the temperature, the melting temperature of the material is higher than the temperature of the passageway at least at the top of the passageway which would meet the claim language, since such material does not turn liquid till the plug is at a point down in the passageway, and the claim language is broader than the argument that it must be at the higher temperature "at the point which it is sealed". The plug of Maly does not contract during cooling until it is exposed to freezing temperatures from a refrigerant. With respect to Feldman and Maly being different technical fields, it is considered that the subject matter of Feldman relied upon is a seal and that one skilled in the art would consider any technical field that would include seals would be evaluated by one skilled in the art for possible teaching of different types of seals that are capable of use in any field, and therefore would look to any field that used seal rings to discover what is known in the art of seal rings.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference to Bosma (657) disclosing a state of the art plug structure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/
Primary Examiner, Art Unit 3754

JFH